

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**MICHAEL HEATH THETFORD,
ANGEL CENTENO-MORALES, and
NELSON R. ZAPATA-VICENTE,**

Plaintiffs,

v.

**Civ. Action No. 1:20-CV-82
(Judge Kleeh)**

**ROGER WARE,
ALVIN JAMES WARRICK,
COLITHA PATRICE BUSH,
RONALD BENNETT SHEPHERD,
TANYA L. RICHARD,
PRIVATE SERVICES, and
UNITED STATES OF AMERICA,**

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 90]

On May 14, 2020, the pro se Plaintiff, Michael Heath Thetford ("Thetford"), filed Motion for Writ of Habeas Corpus Ad Testificandum Production of Incarcerated Witnesses ("Motion"), wherein Thetford requests this Court require certain incarcerated persons be brought before this Court for a hearing on the preliminary injunction. [ECF No. 20].

Pursuant to 28 U.S.C. § 636 and the local rules, the Court referred the action to United States Magistrate Judge Michael J. Aloi for initial review. On November 3, 2020, the Magistrate Judge entered a Report and Recommendation ("R&R"), recommending that the Court deny the Motion as moot. [ECF No. 90].

The R&R also informed the parties that they had fourteen (14)

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days from the date of service of the R&R to file "specific written objections, identifying the portions of the Report and Recommendation to which objection is made, and the basis of such objection." It further warned them that the "[f]ailure to file written objections . . . shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals." The docket reflects that Petitioner accepted service of the R&R on August 10, 2020. [See ECF No. 34]. To date, no objections have been filed.

When reviewing a magistrate judge's R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, "the Court may adopt, without explanation, any of the magistrate judge's recommendations" to which there are no objections. Dellarcirprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Because no party has objected, the Court is under no obligation to conduct a de novo review. Accordingly, the Court reviewed the R&R for clear error. Upon careful review, and finding no clear error, the Court **ADOPTS** the R&R [ECF No. 90]. The Motion is **DENIED as moot** and **DISMISSED WITHOUT PREJUDICE**.

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It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all pro se parties via certified mail, return receipt requested, and to counsel of record via email.

DATED: February 8, 2021

/s/ Thomas S. Kleeh
THOMAS S. KLEEH
UNITED STATES DISTRICT JUDGE